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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,837	05/28/2002	Neil Siewert	2643-1-001	5761

7590

07/28/2003

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EXAMINER

LAYNO, BENJAMIN

8

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 07/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/031,837

Applicant(s)

SIEWERT ET AL.

CS

Examiner

Benjamin H. Layno

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Price in view of Franchi.

The patent to Price discloses an apparatus for playing a game using an environment either real (actual football game viewed on television, col. 5, lines 44-46) or created (football board game, Fig. 1) in which events (football plays) occur. The apparatus comprises a means 38, 40, 42, 44 to delineate zones 50, 52, 54, 56 with delineation indicators "First Down", "Touchdown", "Score", "Sack", that event may occur. Price further comprises a plurality of markers 58. These markers are placed on the delineated betting zones, col. 4, lines 1-3. Thus, the markers inherently have a predetermined value for a game participant to associate with one or more delineated betting zones. A game participant is rewarded by the addition of a marker if the participant placed a marker on a betting zone corresponding to an event occurring. A game participant is penalized by the removal of a marker if the participated placed a marker on a betting zone that did not correspond to an event occurring.

The only feature recited in claim 1 that Price lacks is "an electronic display means".

The patent to Franchi discloses an electronic roulette game Fig. 12 in which events occur (spinning and stopping of roulette wheel to select a number). Participants bet on zones 1204 delineated by numbers where event occurs. Franchi further discloses an electronic display means Fig. 13, for each participant. The electronic display presents the zone 1303 that the event becomes associated with. In view of such teaching, it would have been obvious to incorporate an electronic display to Price's game. The electronic display would have presented Price's zones electronically in order for participants to more conveniently place bets.

In regard to claims 2, 5 and 18, placing odds on betting zones is well known in the art and therefore obvious.

Concerning claim 3, in Price's game events occur at regular intervals whenever a football play card is drawn, or whenever an actual football play occurs on television.

Concerning claim 4, markers placed in zone 60 are pooled, and a reward to a participant comprises a predetermined proportion of the pooled value, col. 4, lines 4-7 and col. 5, lines 3-12.

In regard to claims 6 and 20, in Price's game, the environment changes each time a football play card is drawn, or whenever an actual football play occurs on television.

In regard to claims 16 and 17, Franchi teaches that it is known to place bets on zones using a portable device, Fig. 16. In view of such teaching, it would have been obvious to provide a portable device to Price's game in order for players unable to sit next to the game apparatus to place their bets from remote locations.

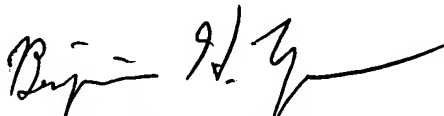
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3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Parra et al. 248', Parra et al. 960', and Chichester each disclose game apparatus wherein participants place bets on live events.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (703) 308-1815. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on (703) 308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

  
Benjamin H. Layno  
Primary Examiner  
Art Unit 3711

bhl  
July 23, 2003